IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION

DOCKET NO. 1:13CR21

UNITED STATES OF AMERICA,	)	
	)	**MOTION FOR**
Plaintiff,	)	
	)	**PRELIMINARY**
v.	)	**ORDER OF FORFEITURE**
	)	
BARRY HOWARD LANDRETH,	)	**BY SUBSTITUTION OF PROPERTY**
	)	
Defendant.	)	

COMES NOW the United States of America, by and through Anne M. Tompkins, United States Attorney for the Western District of North Carolina, pursuant to 21 U.S.C. § 853(p) ("Forfeiture of substitute property") and Fed. R. Crim. P. 32.2(e) (Subsequently located property; Substitute property"), and hereby respectfully moves the Court to enter a Preliminary Order of Forfeiture substituting certain property for a portion of the money judgment previously entered against the defendants in this case. In support of this motion, the government shows the Court the following:

Legal Basis for New Substitute Property

6. More than nine months after the Consent Order and Judgment of Forfeiture was entered against the defendant on April 11, 2013, Doc. 13, and the defendant has not paid the remaining portion of the money judgment and does not have the ability to pay as the fraudulently obtained money was used to purchase other assets.

7. Therefore, pursuant to 21 U.S.C. § 853(p) ("Forfeiture of substitute property") and Rule 32.2(e) ("Subsequently Located Property; Substitute Property"), other property may now be

substituted for any portion of the money judgment.

8. In the Consent Order and Judgment of Forfeiture. Doc. 13, the defendant stipulated that the money judgment could be collected from “any property, real or personal, of the defendant, in accordance with the substitute asset provisions of 21 U.S.C. § 853(p).”

Property Now Subject to Forfeiture as Substitute Property

10. The following property was seized from Barry Howard Landreth, and is, therefore, “other property” of the defendant, 21 U.S.C. § 853(p), that is “subject to forfeiture,” Rule 32.2(e)(2), as substitute property for a portion of the money judgment:

(a) One (1) Trek Alpha aluminum mountain bike; and

(b) One (1) Trek High Five Plus mountain bike.

NOW, THEREFORE, the United States, pursuant to Rule 32.2(e), which provides for the entering of a new order of forfeiture or an amendment of an existing order of forfeiture “at any time,” moves the Court to enter a **Preliminary Order of Forfeiture** under Rule 32.2(b) and (e) substituting the following property for a portion of the Courts original money judgment:

(a) One (1) Trek Alpha aluminum mountain bike; and

(b) One (1) Trek High Five Plus mountain bike.

Upon adjudication of all third-party interests, if any, under 21 U.S.C. § 853(n) and Rule 32.2(c), the United States will ask the Court to enter a final order of forfeiture pursuant to Fed. R. Crim. P. 32(c)(2).

A proposed **Preliminary Order of Forfeiture** granting the relief requested is submitted herewith.

Respectfully submitted this the 28th day of February, 2014.

ANNE M. TOMPKINS
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____
s/ THOMAS R. ASCIK
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CERTIFICATE OF SERVICE

I hereby certify that the Government's Motion for Seventh Preliminary Order of Forfeiture was duly served upon defense counsel via ECF at the following address:

Rodney Gene Hasty: hasty.law@gmail.com

This the 28th day of February, 2014.

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